Maryland
DEPARTMENT OF COMMERCE

Larry Hogan | Governor
Boyd Rutherford | Lt. Governor
Kelly M. Schulz | Secretary of Commerce

DATE: February 18, 2021
BILL NO: House Bill 805
BILL TITLE: Economic Development – Enterprise Zone Program – Alterations
COMMITTEE: House Ways and Means

Statement of Information

House Bill 805 would alter the Enterprise Zone program to restrict the Secretary's ability to designate a new zone or expand an existing zone by capping the valuation of properties receiving the credit to $50 million statewide, and by reducing the size that the Secretary can increase an existing zone from 50 percent down to 10 percent without treating the expansion as a new zone.

Enterprise Zone Program Background:

Enterprise Zones are a State-local partnership that allows local jurisdictions to prioritize areas for economic development. Designations of new zones or expansion of existing ones must meet a specific economic distress criterium:

- The average rate of unemployment in the area, or within a reasonable proximity to the area but in the same county, for the most recent 18-month period for which data are available is at least 150% of the greater of the average rate of unemployment in either the State or the United States during that period; or
- The population in the area, or within a reasonable proximity to the area but in the same county, qualifies the area as a low-income poverty area; or
- At least 70% of the families in the area, or within a reasonable proximity to the area but in the same county, have incomes that are less than 80% of the median family income in the political subdivision that contains the area; or
- The population in the area, or within a reasonable proximity to the area but in the same county, decreased by 10% between the most recent two censuses, and the political subdivision can demonstrate to the Secretary's satisfaction that chronic abandonment or demolition of property is occurring in the area; or substantial property tax arrearages exist in the area.

The Secretary may not designate more than 6 zones in one year, and a county may not receive more than one designation or redesignation in a calendar year.

Local Enterprise Zone administrators generally agree that the Enterprise Zone real property tax credit is the most useful and effective tax credit available to businesses that locate or expand in an Enterprise Zone. Counties that have few other incentives to offer find that the property tax credits are central to implementing their economic development strategy. Several counties also noted that the credits are useful in retaining companies in the zone, as companies considering an expansion often decide to expand within the zone rather than move to another location outside of the zone, which could potentially bring send them to another county or even to another state.

Bill Summary:

House Bill 805 restricts the Secretary's ability to designate a new zone or expand an existing zone. The bill:

- Prohibits the Secretary from designating a new enterprise zone in the current calendar year if the aggregate amount of property tax credits to be claimed is "reasonably expected by the Department to exceed $50 million" in the current fiscal year or the aggregate amount of credits claimed for the immediately preceding fiscal year exceeded $50 million.
- Reduces the threshold for characterizing a Zone expansion as a new designation from 50 percent of the size of the existing enterprise zone to only 10 percent. The Secretary is permitted to grant an extraordinary expansion if an area "merits inclusion in an enterprise zone for a compelling economic reason."
- Requires the Secretary to adopt regulations for the evaluation and prioritization of applications for designation and expansion of enterprise zone.
- Effectively sunsets the enterprise zone and focus area income tax credits for hiring new employees by requiring a qualified employee to be hired before July 1, 2021.

The bill also makes these administrative changes:

- Expands eligibility for enterprise zone designation to areas identified by a county's master plan as a priority area, or is designated as a future growth area or as a priority area for neighborhood or commercial revitalization.
- Replaces the State Department of Assessment and Taxation instead of the Comptroller for mandated reporting with Commerce.
- Mandates each zone to submit an annual report with specific criteria by September 15th of each year, and authorizes the Secretary to withhold designation or expansion of an enterprise zone if the jurisdiction does not comply with mandated reporting.
- Requires Commerce and the State Department of Assessment and Taxation to develop formal metrics to analyzing the cost-effectiveness of each zone and effectiveness of each zone in attracting businesses and increasing employment.

Issues Raised:

This bill raises some significant issues. First, this bill prevents the Secretary from designating new zones if the Department "reasonably anticipates" the aggregate property tax credit claims to exceed $50 million, or if the immediately preceding fiscal year had aggregate claims of $50 million. In fiscal years 2019 and 2020, the amount of property tax credits claimed exceeded $50 million ($60.2 million and $51.9 million, respectively). Therefore, under this metric, the Secretary would not be able to designate new zones or expansions in fiscal year 2021 or beyond. This means that the more success the Enterprise Zone program has in incentivizing high-value investments across the state, the more likely the program is to be frozen.

Second, this bill characterizes an expansion as a new designation if the expanded area requested for inclusion exceeds 10% of the existing enterprise zone. As the Secretary may only designate six zones in a calendar year and a county may only receive two designations in a calendar year, this bill would limit designations further without considering the master plan of the county for economic growth or the geographical disparities between counties that would require, say, a rural county to request expansion larger in size that an urbanized county.

Third, the bill requires Commerce and the State Department of Assessment and Taxation to assess the effectiveness of the zone with "formal metrics." The annual reporting requirement is problematic as it assumes that the economic development activity spurred by Enterprise Zone tax credits can be easily assessed on a yearly basis, when the effect of these investments can stretch years into the future. Making this process more difficult is the fact that local governments can and do target the purposes of their Enterprise Zones to meet specific local needs, meaning that existing zones are large and varied enough that Commerce staff would need to spend an inordinate amount of time coordinating with local zone administrators and collecting & analyzing data to ensure that the specific purpose of each Zone was captured and measured.

Finally, this bill expands the rationales that can be used to justify the creation of Enterprise Zones while it also essentially freezes the creation of new Zones across the state. This sends a confused message to local governments, who may wish to take advantage of this new rationale but will be blocked from doing so.

Overall, these proposed changes shift the rationale for designating new zones and expanding existing zones to one based in the taxable value of property in lieu of focusing on the economic distress within local jurisdictions that warrant the designation in the first place.